

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's Own Motion Into the Planned Purchase and Acquisition by AT&T Inc. of T-Mobile USA, Inc., and its Effect on California Ratepayers and the California Economy.

Investigation 11-06-009
(Filed June 9, 2011)

**DECISION MODIFYING DECISION 13-05-031
TO IMPROVE CLARITY****1. Summary**

This decision corrects Ordering Paragraph 2 of Decision (D.)13-05-031 to clarify the entities responsible for payment of \$255,944.03 in intervenor compensation awarded to The Utility Reform Network for its participation in Investigation 11-06-009. This proceeding remains open to address other pending matters, including an application for rehearing of D.13-05-031.

2. Discussion

On April 21, 2011, AT&T Inc. (AT&T) and Deutsche Telekom AG (T-Mobile USA, Inc.'s parent company) filed applications with the Federal Communications Commission (FCC) pursuant to Sections 214 and 310(d) of the Communications Act of 1934 (47 U.S.C. §§ 214, 310(d)), seeking FCC consent to transfer control of the licenses and authorizations held by T-Mobile USA, Inc. (T-Mobile) and its subsidiaries to AT&T. (WT Docket No. 11-65.) Also on April 21, 2011, AT&T provided to the California Public Utilities Commission

(Commission) an initial notice of the proposed transfer, commonly referred to as the merger of the two companies. The Commission opened Investigation (I.) 11-06-009, on June 9, 2011, to investigate, gather, and analyze information relevant to the proposed purchase and acquisition of T-Mobile by AT&T. The purpose of this investigation was “to determine the specific impact of the merger on California.”¹ Parties and the Commission undertook a detailed review of the proposed merger within this proceeding over the six months subsequent to the initiation of this investigation.

On December 21, 2011, the respondents filed a motion to dismiss this proceeding as moot, citing their announcement on December 19, 2011, that AT&T had agreed with Deutsche Telekom AG to cease its efforts to acquire T-Mobile. This motion stated that because “AT&T has withdrawn its bid to acquire T-Mobile USA, and the stipulation of dismissal has been filed in the federal court litigation, there [was] no longer any reason for the investigation to remain open.”² On August 23, 2012, the Commission issued Decision (D.) 12-08-025 dismissing this investigation. The Utility Reform Network (TURN) requested intervenor compensation for its participation in this proceeding on October 29, 2012, and D.13-05-031 awarded TURN \$255,944.03 for its participation in this investigation.

Shortly after the issuance of D.13-05-031, it was brought to the Commission’s attention that the names included in Ordering Paragraph (OP) 2 of that decision identifying the entities responsible for payment of intervenor

¹ I.11-06-009 at 2.

² Motion to Dismiss, December 21, 2011, at 1.

compensation were inconsistent with the names of the respondents to this proceeding and the entities participating throughout the proceeding on behalf of AT&T and T-Mobile. Specifically, OP 2 refers to T-Mobile USA, Inc. and Pacific Bell d/b/a AT&T California as the companies responsible for payment of the award, whereas the respondents to the proceeding are listed in the Order Instituting Investigation as New Cingular Wireless PCS, LLC (U3060C) and affiliated wireless entities³ and T-Mobile West Corporation d/b/a T-Mobile (U3056C).

On Friday, June 14, 2013, Assistant Chief Administrative Law Judge (ALJ) Dorothy Duda sent an electronic mail ruling on behalf of assigned ALJ Jessica Hecht to the service list of this proceeding. That ruling provided parties with an opportunity to comment on whether OP 2 of D.13-05-031 should be modified to correct the names of the companies responsible for payment. On June 25, 2013, various entities representing T-Mobile and AT&T filed a timely joint response to the electronic mail ruling recommending modifications to OP 2 to more accurately specify the entities responsible for paying the intervenor compensation awarded in D.13-05-031. According to that response, the correct entities are T-Mobile West LLC dba T-Mobile (U3056C) (T-Mobile) and New Cingular Wireless PCS, LLC (U3060C), AT&T Mobility Wireless Operations Holdings Inc. (U3021C), Santa Barbara Cellular Systems, Ltd. (U3015C) and AT&T Mobility Wireless Operations Holdings, LLC (U3014C) (collectively referred to as "AT&T Mobility"). No parties have objected to that response. This

³ AT&T Mobility Wireless Operations Holdings Inc. (U3021C), Santa Barbara Cellular Systems, Ltd. (U3015C) and AT&T Mobility Wireless Operations Holdings, LLC (U3014C).

decision modifies OP 2 of D.13-05-031 consistent with the language suggested in the June 25, 2013 filing, to more clearly describe the entities responsible for paying this award.

3. Comments on Proposed Decision

Public Utilities Code section 311(g)(1) provides that this proposed decision must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding. Rule 14.6 (b) also provides that the Commission may waive or reduce the comment period for a decision “where all the parties so stipulate.”

Only TURN and the merger proponents have a direct interest in this intervenor compensation matter. All parties to the proceeding had the opportunity to comment on the waiver of the review and comment periods in this matter, and the parties directly affected by this intervenor compensation matter have stipulated to waive both the 30-day review period under Section 311(g)(1) of the Public Utilities Code and the opportunity to file comments on the draft decision. No parties have objected to such a waiver. Accordingly, this matter will be placed on the Commission’s agenda directly for prompt action.

4. Assignment of Proceeding

Catherine J.K. Sandoval is the assigned Commissioner and Jessica T. Hecht is the assigned ALJ in this proceeding.

Findings of Fact

1. OP 2 of D.13-05-031 does not clearly specify the entities responsible for payment of the intervenor compensation awarded in that decision.

2. No parties have objected to modifying OP 2 of D.13-05-031 to clarify the entities responsible for payment.

3. All required parties have stipulated to waive the 30-day period under Section 311(d).

4. The entities responsible for paying the intervenor compensation awarded in D.13-05-031 are, T-Mobile West LLC dba T-Mobile (U3056C) (T-Mobile) and New Cingular Wireless PCS, LLC (U3060C), AT&T Mobility Wireless Operations Holdings Inc. (U3021C), Santa Barbara Cellular Systems, Ltd. (U3015C) and AT&T Mobility Wireless Operations Holdings, LLC (U3014C) (collectively referred to as "AT&T Mobility").

Conclusions of Law

1. OP 2 of D.13-05-031 should be modified to clarify the entities responsible for payment of the intervenor compensation awarded in that decision.

2. All required parties have stipulated to waive the 30-day period under Section 311(d).

O R D E R

IT IS ORDERED that:

1. Ordering Paragraph 2 of D.13-05-031 is modified to read:

2. Within 60 days of the effective date of this decision, T-Mobile West LLC dba T-Mobile (U3056C) (T-Mobile) and New Cingular Wireless PCS, LLC (U3060C), AT&T Mobility Wireless Operations Holdings Inc. (U3021C), Santa Barbara Cellular Systems, Ltd. (U3015C) and AT&T Mobility Wireless Operations Holdings, LLC (U3014C) (collectively referred to as "AT&T Mobility") shall pay The Utility Reform Network their respective shares of the award, based on the pro rata share of their collective California-jurisdictional telecommunications revenues for the 2011 calendar year, to reflect the year in which the proceeding was primarily litigated.

2. This proceeding shall remain open.

This order is effective today.

Dated _____, at Carmel-by-the-Sea, California

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